

**REMARKS**

In the Office Action dated June 15, 2007 (hereinafter, "Office Action"), the Office Action rejected claims 1, 4, 6-7, 14-15 and 22-23 under 35 U.S.C. § 102. The Office Action also rejected claims 8-9, 16-17, 24-25 and 30-33 under 35 U.S.C. § 103. All claims have been cancelled and new claims 34-58 have been added.

In accordance with the new rules, Applicant has amended to fit within the 5 - 25 guidelines of the recent USPTO rules (5 independent, with a total of 25 claims). New claims 34-58 correspond to the previously pending claims, but have been re-presented as an aid to the Examiner and to provide a format of continuous claim dependencies. Independent claim 34 relates to a controller, independent claim 39 relates to a method, independent claim 46 relates to an apparatus, and independent claim 53 relates to a computer-readable medium. The independent claims include similar subject matter as particularly set forth below.

**I. Rejection of Claims 1, 4, 6-7, 14-15 and 22-23 Under 35 U.S.C. § 102**

The Office Action rejected claim 1, 4, 6-7, 14-15 and 22-23 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,233,550 to Gersho et al. (hereinafter, "Gersho").

This rejection, as now related to new independent claims 34, 39, 46, and 53 is respectfully traversed.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." MPEP § 2131 (citing Verdegaal Bros. v. Union Oil Co. of California, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)). "The identical invention must be shown in as complete detail as is contained in the ... claim." Id. (citing Richardson v. Suzuki Motor Co., 9 USPQ2d 1913, 1920 (Fed. Cir. 1989)). In addition, "the reference must be enabling and describe the applicant's claimed invention sufficiently to have placed it in possession of a person of ordinary skill in the field of the invention." In re Paulsen, 31 USPQ2d 1671, 1673 (Fed. Cir. 1994).

Applicant respectfully submits that the claims at issue are patentably distinct from Gersho. Gersho does not disclose all of the subject matter in these claims.

Claim 34 recites “wherein the inactive vocoder frames are not transmitted to a receiver.” Support for this amendment may be found in Applicants’ specification, for example, page 6, line 24. Gersho does not disclose this subject matter.

Instead Gersho states:

For every frame, a speech classifier/pitch/voicing (CPV) module 18 classifies the speech as stationary unvoiced, steady-state voiced (harmonic), or transition speech. The resultant classification is then used to control a switch 20 to route the LP residual 16 to an input line 22, 24, 26 associated with a corresponding stationary unvoiced coder 28, a voiced coder 30, or a transition coder 32, respectively.

Gersho, col. 13, lines 22-29.

The Office Action points to the above-cited passage of Gersho to support the assertion that “Gersho discloses . . . generating inactive vocoder frames.” Office Action, pages 3-4. Thus, it appears the Office Action is asserting that “stationary unvoiced . . . speech” discloses “inactive vocoder frames.” However, “classif[ying] the speech as stationary unvoiced . . . speech” does not disclose “wherein the inactive vocoder frames are not transmitted to a receiver.” In addition, “control[ling] a switch . . . to route the LP residual . . . to an input line . . . associated with a corresponding stationary unvoiced coder” does not disclose “wherein the inactive vocoder frames are not transmitted to a receiver.”

The Office Action also referred to item 50 of Figure 4A of Gersho to support the assertion that “Gersho discloses . . . inactive vocoder frames.” Office Action , page 4. However, regarding item 50 of Figure 4A, Gersho states:

Classification data 42, pitch data 44 and voicing data 46 are also sent to a multiplexer 48 which multiplexes that data with the corresponding outputs 50, 52, 54 of the stationary unvoiced, voiced and transition coders (e.g., corresponding speech frames), respectively, for transmission over a data channel 56. Accordingly, the quantized LP parameters, the class decision and the quantized parameters of the appropriate coder are sent to the decoder.

Gersho, col. 13, lines 46-53.

As stated above, item 50 of Figure 4A refers to the output of “the stationary unvoiced . . . coder[.]” Id. This output (item 50) is multiplexed with “classification data . . . pitch data . . . and voicing data . . . for transmission over a data channel.” Id. In other words, the output of “the stationary unvoiced . . . coder[.] [item 50]” is transmitted “over a data channel.” As such,

transmitting the output of “the stationary unvoiced . . . coder[.]” does not disclose “wherein the inactive vocoder frames are not transmitted to a receiver.” Further, as provided above, Gersho discloses that “the quantized parameters [including item 50] . . . are sent [transmitted] to the decoder.” *Id.* Sending “the quantized parameters . . . to the decoder” does not disclose “wherein the inactive vocoder frames are not transmitted to a receiver” as claimed by Applicant.

In view of the foregoing, Applicant respectfully submits that independent claims 34, 39, 46, and 53 patentably define over Gersho. Approval and entry are respectfully requested.

## **II. Rejection of Claims 8, 16, 24 and 30-33 Under 35 U.S.C. § 103**

The Office Action rejected claim 8, 16, 24 and 30-33 under 35 U.S.C. § 103(a) as being unpatentable over Gersho in view of U.S. Patent No. 6,691,092 to Udaya Bhaskar et al. (hereinafter, “Bhaskar”).

This rejection, as now related to independent claims 34, 39, 46, and 53 is respectfully traversed.

The factual inquiries that are relevant in the determination of obviousness are determining the scope and contents of the prior art, ascertaining the differences between the prior art and the claims in issue, resolving the level of ordinary skill in the art, and evaluating evidence of secondary consideration. *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. \_\_\_, 2007 U.S. LEXIS 4745, at \*\*4-5 (2007) (citing *Graham v. John Deere Co. of Kansas City*, 383 U.S. 1, 17-18 (1966)). To establish a *prima facie* case of obviousness, the prior art references “must teach or suggest all the claim limitations.” M.P.E.P. § 2142. Moreover, the analysis in support of an obviousness rejection “should be made explicit.” *KSR*, 2007 U.S. LEXIS 4745, at \*\*37. “[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” *Id.* (citing *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006)).

Applicant respectfully submits that the claims at issue are patentably distinct from Gersho and Bhaskar. Gersho and Bhaskar, alone or in combination, do not teach or suggest all of the subject matter in these claims.

All claims set forth that “inactive vocoder frames are not transmitted to a receiver.” Support for this amendment may be found in Applicants’ specification, for example, page 6, line 24. Gersho, alone or in combination with Bhaskar, does not teach or suggest this claim feature.

Analysis of Gersho is set forth above.

The addition of Bhaskar does not overcome the deficiencies of Gersho. The Office Action does not point to, and Applicant cannot find, any teaching or suggestion by Bhaskar of “wherein the inactive vocoder frames are not transmitted to a receiver.” The Office Action relies upon Bhaskar to support the assertion that “Bhaskar discloses state vectors representing both transient and steady state vectors.” Office Action, page 6.

In view of the foregoing, Applicant respectfully submits that claims 34, 39, 46, and 53, and the claims depending therefrom patentably define over the applied art. Approval and entry are respectfully requested.

### **III. Rejection of Claims 9, 17 and 25 Under 35 U.S.C. § 103**

The Office Action rejected claim 9, 17 and 25 under 35 U.S.C. § 103(a) as being unpatentable over Gersho in view of Bhaskar further in view of U.S. Patent No. 6,272,633 to Duke et al. (hereinafter, “Duke”). This rejection is respectfully traversed.

The analysis of Gersho and Bhaskar are set forth above.

In short, the addition of Duke does not set forth “inactive vocoder frames are not transmitted to a receiver.”

Applicant respectfully submits that claims 34, 39, 46, and 53, and the claims depending therefrom patentably define over the applied art. Approval and entry are respectfully requested.

**IV. Conclusion**

Applicant respectfully asserts that all pending claims are patentably distinct from the cited references, and request that a timely Notice of Allowance be issued in this case. If there are any remaining issues preventing allowance of the pending claims that may be clarified by telephone, the Examiner is requested to call the undersigned.

Respectfully submitted,

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